

MEMO

TO: Three Forks Planning Board
FROM: Lee Nellis, FAICP
DATE: September 12, 2024

RE: Getting to Work on the Land Use Regulations

Writing new land use regulations can be interesting and controversial. It can also be boring. We will strive to balance those experiences by splitting work meetings between the discussion of zoning districts and the standards that apply in them, which is usually interesting, and talking about administrative procedures, which usually isn't.

Zoning Districts. At each meeting we'll work through a PowerPoint presentation that helps the Board answer questions about how each zoning district should work. Your answers will come back to you in the form of a draft chapter before the next meeting. We'll begin with the zoning for the area southeast of the city due to the impending development proposal. The Board can set the order after that.

Zoning Homework. Oh no! But this will be fun! I will ask Board members to drive or walk around town being observant and taking pictures that help answer questions about how development ought to look and function. You'll get your first assignment on the 19th.

Administration. Writing the procedural parts of the new regulations will be easier if I give you a draft of what, in my experience, works, and you comment. We'll begin at the beginning (see below), but the order in which we address the procedures after that doesn't much matter. If there is a procedural topic – it could be nonconforming uses, variances, amendments, or whatever – on which you have questions, please let me know and we'll get right to it.

I look forward to meeting with you on the 19th! Here is the first procedural or administrative chapter of the draft land use regulations for your review.

Structure of the Draft Regulations

I have learned that the quickest route to understanding how land use regulations work is to think of them as answering a series of questions. That is, after all, how regulations are administered. Someone shows up at the city offices with questions about what they (or their neighbor) can or cannot do with their property. The staff answers the questions. The Planning Board may also find itself answering questions about the regulations during meetings.

So, what you see here is a series of questions and answers. This draft also includes explanatory notes – which appear in italics - that will not be in the final draft, but that help explain the procedures and substantive requirements of the regulations. In some instances (including this chapter), the notes also pose questions that should be answered as we go.

TITLE 11 – LAND USE REGULATIONS

Chapter 1 Purpose - Authority – Jurisdiction - Basic Principles

11-1-1 What is the purpose of these regulations?

These regulations are adopted for the purposes established by MCA 76-25-102 and to implement Three Forks' land use plan, as required by MCA 76-25-301 and MCA 76-25-401.

Each chapter will have a section that expands on this basic statement of purpose.

11-1-2 What is the authority for adoption of these regulations?

These regulations are adopted under the authority of MCA 76-25-301, which allows local governments to adopt zoning regulations, and MCA 76-25-401, which requires local governments to adopt subdivision regulations.

Specific citations of state law will appear where they can help explain the requirements of these regulations.

11-1-3 What is the jurisdiction subject to these regulations?

These regulations apply within the City of Three Forks. *Jurisdiction is one of the most important and most difficult questions that must be addressed in these regulations. Montana law requires cities to prepare regulations for areas they anticipate annexing within 20 years, but does not allow a city to unilaterally impose those regulations outside its limits. Three Forks must decide whether it should seek an interlocal agreement with Gallatin County that would allow it to regulate the lands identified for potential annexation in its growth policy (which, since recent statutory changes is the land use plan).*

11-1-4 What basic principles guide the administration of these regulations?

11-1-4.1 Acknowledgement. The applicant's signature on an application for a permit required by these regulations is an acknowledgement that they have read and followed these basic principles.

Applicants who are not professional developers often have only a vague understanding of the regulatory process. That's to be expected, so I've found it helpful for the staff accepting applications to have guidance for explaining basic things that applicants should understand right in the regulations. These principles should be reproduced above the signature block on application forms.

11-1-4.2 Other regulations may apply. No one should apply for a permit from the city until they have a clear understanding of how state and federal regulations affect their project. If an applicant obtains a permit, then finds that they must make a substantial change in the approved plans to comply with state or federal regulations, they may have to apply for and obtain a new permit.

11-1-4.3 Private agreements may apply. No one should apply for a permit from the city until they have a clear understanding of how private agreements like covenants, deed restrictions, and easements affect their project. If an applicant obtains a permit, then finds that they must make a substantial change in the approved plans to comply with a private agreement, they may have to apply for and obtain a new permit.

11-1-4.4 Applicants bear the burden of proof. Applicants should be sure they understand the relevant requirements of these regulations before applying for a permit and clearly demonstrate compliance in the materials they submit. Applicants may need, and in some cases, are required to retain professional help in preparing applications.

11-1-4.5 All representations are binding. All representations made on application forms and checklists, and in the drawings and other materials that accompany an application, are binding. What does 'binding' mean? It means that projects must be built as described and depicted in the application approved by the city, and in compliance with any conditions of approval. Minor changes in approved plans may be permitted as explained later in these regulations. Substantial changes will require a new permit.

11-1-5 What happens if a provision of these regulations is held invalid by a court?

If any provision of these regulations or their application in particular circumstances is held invalid by a court, the entire remainder of the regulations and their application in all other circumstances shall be unaffected.

11-1-6 When did these regulations become effective?

These regulations became effective on _____ .

DRAFT